



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

Docket No. USCG-2015-0343

RIN 1625-AA09

Drawbridge Operation Regulation; Atlantic Intracoastal
Waterway, Little River to Savannah River

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the Lady's Island Bridge, across the Beaufort River, Mile 536.0 at Beaufort, SC. This modification would allow Lady's Island Bridge to remain closed during peak vehicular traffic times. The bridge owner, South Carolina Department of Transportation, requested this action to assist in reducing traffic caused by bridge openings.

DATES: Comments and related material must reach the Coast Guard on or before [Insert date **60** days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2015-0343 using Federal eRulemaking Portal at

<http://www.regulations.gov>.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Lieutenant John Z. Downing at telephone 843-740-3184, e-mail John.Z.Downing@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	Federal Register
NPRM	Notice of proposed rulemaking
SNPRM	Supplemental notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background, Purpose and Legal Basis

The City of Beaufort, South Carolina requested that the bridge owner and the U.S. Coast Guard modify the operating schedule for Lady's Island Bridge to reduce vehicular traffic in the City of Beaufort and surrounding communities. On February 17th, 2015, Coast Guard Sector Charleston Waterways Management (WWM) staff observed the Lady's Island Bridge operations between the hours of 6 a.m. and 10 a.m. During the observation period, the staff discussed potential changes with the Bridge owner, South Carolina Department of Transportation.

Additionally, WWM met with the Beaufort County South Carolina traffic manager to discuss bridge opening impacts.

On August 5th, 2015, a Temporary Deviation, entitled, "Drawbridge Operation Regulations: Atlantic Intracoastal Waterway, Little River to Savannah River," was published in the Federal Register [USCG-2015-0343] [80 FR 46492] to evaluate whether changing the bridge opening schedule would assist in reducing traffic congestion. This deviation was in effect through November 3rd, 2015.

During the deviation period the Coast Guard received six comments, five of which recommended retaining the operating schedule currently found at 33 CFR 117.911(f). One comment proposed a bridge opening during the morning and afternoon vehicular traffic rush hours. Based on the Coast Guard's observation of bridge use during peak traffic hours, the existing schedule would continue to create an unreasonable amount of vehicle traffic during morning and afternoon commutes and generally during daylight hours. One comment further suggested not changing the existing schedule during certain times of the year when increased vessel traffic is expected. The Coast Guard adopted this proposal because would meet the reasonable needs of navigation.

The Lady's Island Bridge in Beaufort, South Carolina has a vertical clearance of 30 feet at Mean High Water in the closed position. The existing drawbridge schedule can be found in 33 CFR 117.911(f).

III. Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 117.911(f). This proposed regulation would modify timeframes the bridge may remain closed. It would extend the morning closure period, when the bridge is authorized to remain closed, by an additional half hour and the afternoon closure period by an additional hour. It would also set an hourly opening schedule between 9 a.m. and 3 p.m. when the Bridge will open on the hour, thereby reducing hourly openings from twice an hour to once an hour during daytime hours, Monday through Friday, except Federal holidays. This proposed regulation would reduce vehicle backups without unreasonably restricting vessel traffic, thereby balancing the needs of both modes of transportation. No changes to the existing regulation will be implemented during the months of April, May, October and November because higher vessel traffic volumes exist during these time periods. At all other times, this bridge will open on signal.

The South Carolina Department of Transportation, the bridge owner, has no objections to this proposed schedule.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes and E.O.s and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a "significant regulatory action," under E.O. 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on vessels being able to plan voyages that require transiting the bridge during the scheduled opening periods or, when capable of doing so, vessels may transit under the bridge at any time.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule.

If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would

not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions

which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a

comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the Federal Register (70 FR 15086).

Documents mentioned in this notice, and all public comments, are in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. In §117.911, revise paragraph (f) to read as follows:

* * * * *

(f) The Lady's Island Bridge (Woods Memorial), across the Beaufort River, Mile 536.0 at Beaufort. The draw shall operate as follows:

(1) On Monday through Friday, except Federal holidays:

(i) From 6:30 a.m. to 9 a.m. and 3 p.m. to 6 p.m., the draw need not open to navigation; and,

(ii) Between 9 a.m. to 3 p.m., the draw need open only on the hour.

(2) During the months of April, May, October, and November from Monday through Friday, except Federal holidays, the

Lady's Island Bridge (Woods Memorial) shall operate as follows:

(i) From 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., the draw need not open to navigation; and,

(ii) Between 9 a.m. to 4 p.m., the draw need open only on the hour and half-hour.

(3) At all other times the draw shall open on signal.

Dated: May 4, 2016

S. A. Buschman,
Rear Admiral, U.S. Coast Guard,
Commander, Seventh Coast Guard District

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